

246225

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, D.C.

MAY 19 2003  
JMS

AERIAL BANNER,

Petitioner,

Part 16 Docket No:

16-03-07

v.

JAA-03-15441-1

BROWARD COUNTY  
AVIATION DEPARTMENT,

Respondent.

DEPT. OF TRANSPORTATION  
FACILITIES  
03 JUN 16 PM 12:52

**PART 16 COMPLIANT**

Petitioner, AERIAL BANNER, by and through their undersigned counsel, files this Part 16 Complaint against the BROWARD COUNTY AVIATION DEPARTMENT, and states the following:

**1. Name and Address of Parties Involved:**

1. Aerial Banner, Complainant  
C/o Law Offices of Moulis & Associates  
1100 Lee Wagener Blvd.  
Suite 338  
Ft. Lauderdale, FL 33315  
Tel: 954.359.3172  
Fax: 954.359.3213
2. Ms. Nancy Demeo, Airport Manager, North Perry Airport  
Broward County Aviation Department  
Ft. Lauderdale/Hollywood International Airport  
320 Terminal Drive  
Ft. Lauderdale, FL 33315
3. Matt Thys  
FAA Airport District Office  
Citadel International  
Suite 500  
5950 Hazeltine National Drive  
Orlando, FL 32822

**2. Concise Statement of Facts:**

Aerial Banners is in the aerial advertising business since 1992. Since 1992 Aerial Banners has operated in compliance with all federal and state regulations. On or about September 2002, Aerial Banners contacted the Airport Manager at North Perry Airport (hereinafter referred to "the Airport") in an attempt to fly aerial advertisements from North Perry Airport.

The Airport authority at North Perry notified Aerial Banners that the Airport had insufficient land for another aerial banner advertising business, even though a second aerial advertising business by the name of Bannerama, Inc. had operated out of North Perry Airport. In addition, the Airport authority also stated that due to "safety concerns" that it would be impossible for another aerial banner to be based at North Perry, although the evidence strongly suggests that traffic at North Perry had decreased substantially since 9/11.

**3. Reasonable and Good Faith Effort:**

Aerial Banners certifies that a reasonable and good faith effort has been made in an attempt to resolve this matter. Aerial Banners also certifies that it will continue to make a reasonable and good faith effort in an attempt to resolve this matter with the Respondent.

**4. Basis of Violation**

Aerial Banners believes that it has been discriminated by the Airport in violation of 49 USC §47107, which states that an airport provides general written assurances that it is not conducting any discriminatory behavior. Aerial Banners believes that the Airport is discriminating against them by refusing to have a good faith discussion with them in respect to operating out of the airport and in addition, Aerial Banners believes that this refusal to discuss this matter is based on the fact that Aerial Banners is in the aerial advertising business.

Aerial Banners is suffering economic loss that stems from the Airport's discriminatory behavior.

**5. Exhibit List**

C-1: January 24, 2002 Letter from Aerial Banner, Inc. to Ms. Nina Demeo, Broward County Aviation Authority, requesting permission to conduct Banner Towing Operations.

- C-2: September 4, 2002 Letter from Moulis & Associates on behalf of Aerial Banner to Ms. Nina Demeo requesting a meeting to discuss Banner Towing Operations.
- C-3: November 19, 2002 letter from Orlando Airports District Office to Moulis & Associates regarding September 4<sup>th</sup> letter to Broward County Aviation Authority.
- C-4: November 21, 2002 letter from Ms. Nina Demeo to Moulis and Associates in response to the September 4<sup>th</sup> letter.

Dated: May 9, 2003

**CERTIFICATE OF SERVICE**

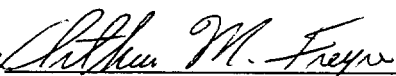
I HEREBY CERTIFY that a true and correct copy of the foregoing Part 16 complaint has been mailed to the following on May 9, 2003:

Ms. Nina Demeo, Airport Manager, North Perry Airport  
Broward County Aviation Department  
Ft. Lauderdale/Hollywood International Airport  
320 Terminal Drive  
Ft. Lauderdale, FL 33315

Mr. Matt Thys  
Orland Flight Standard District Office  
Citadel International  
Suite 500  
5950 Hazeltine National Drive  
Orlando, FL 32822

Respectfully submitted,

MOULIS & ASSOCIATES, P.A.  
*Attorneys for Respondent*  
1100 Lee Wagener Boulevard  
Suite 338  
Fort Lauderdale, Florida 33315  
Telephone: (954) 359-3172  
Facsimile: (954) 359-3213

By:   
Arthur M. Freyre, Esq.  
Florida Bar No. 0123382

**C-1**



# **AERIAL BANNERS, INC.**

January 24, 2002

Attn: Nina Demeo

Dear Ms. Demeo,

Our company, Aerial Banners, Inc. is requesting permission to conduct Banner Tow Operations at Hollywood's North Perry Airport. Our company has resided at North Perry Airport for over 7 years. We have rented offices, Hangars and ramp space but have never been permitted conduct banner-towing operations from North Perry. Our company has also owned and operated Broward Flight Center (Flight school) and had requested permission to tow out of North Perry and was denied because of "Heavy traffic". We feel if reviewed today (2002) the situation and outcome would be different. Over the years we have conducted operations at several airports with multiple banner tow operators, and remain to be welcome at all. We have also spoken to North Perry ATC and they agree that the traffic is not as intense as it was years ago.

We currently store our banner tow planes at North Perry and Opa Locka airport. For the last 6 years we have conducted our banner pick-ups and drops at Opa Locka Airport (OPF) and Opa Loca West (X49). We have a very good record with the Airport Management and ATC. We can furnish you with references if you wish. There are 3 companies that have permission to use Opa Locka airport for Banner tow operations. The fee for towing out of Opa Locka is \$14 per banner for the first 3 banners per plane per day.

Aerial Banners, Inc. is interested in planning a future at North Perry airport. We are in the stages of acquiring hangar space, and would be very interested in leasing a 2 to 4 acre site from the county to build hangars at North Perry.

Thank you for taking this request into consideration.

Sincerely,

Bob Benyo  
President  
Aerial Banners, Inc.

1112 Weston Road, Suite 137, Ft. Lauderdale Florida 33326  
954-893-0099 Fax 954-916-9265 Toll free 1-800-FLY-7001

**C-2**



FORT LAUDERDALE JET CENTER  
1100 LEE WAGENER BOULEVARD  
FORT LAUDERDALE, FLORIDA 33315  
TELEPHONE: (954) 359-3172  
FACSIMILE: (954) 359-3213

September 4, 2002

Ms. Nina Demeo  
Acting Airport Manager  
North Perry Airport  
Broward County Aviation Authority  
320 Terminal Drive  
Ft. Lauderdale, Florida 33315

Re:     ***Aerial Banners, Inc.***  
          ***Banner Operations at the North Perry Airport***

Dear Ms. Demeo:

Please be advised that the undersigned represents Aerial Banners, Inc., (hereinafter referred to as "Aerial Banner") concerning the above referenced matter. My client and I would like to meet with you within the next week to discuss Aerial Banners' future towing operations at North Perry Airport. Specifically, my client would like to commence towing operations out of North Perry Airport as soon as possible.

As you may know, several years ago, the Federal Aviation Administration and the Aviation Authority declined Aerial Banners' request to operate banner towing activities out of North Perry Airport based upon the notion that North Perry Airport already had one banner towing operation. It is our understanding, however, that the original banner tow operator has reduced its operations significantly since then. It is also our understanding that since September 11, 2001, overall general operations at North Perry Airport have also declined.

For your information, Aerial Banners' has operated a legitimate aerial advertising business for approximately 8 years. Prior to 1999, Aerial Banners operated under the name of Broward Flight Center. During these 8 years, its operations have been approved by, and currently operate under the authority of state, local, and federal agencies. Further, Aerial Banners has always been in compliance with all federal and state regulations and continues to maintain an unblemished record with the Federal Aviation Administration (FAA).

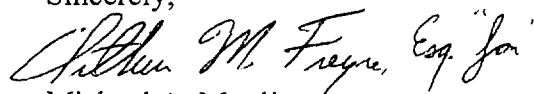
Based upon the above, it is the undersigned's position that Aerial Banner may conduct banner tow operations out of North Perry Airport without any safety implications. Accordingly, by this letter, Aerial Banner, requests a meeting with you to discuss the above. Moreover, with all due respect to those who made the aforementioned decision above, it is somewhat foolish to suggest two banner tow operations cannot be conducted safely at North Perry Airport, even with the number of operations prior to September 11, 2001.

As you know, North Perry Airport is both a state and federally funded airport and must comply with all applicable federal and state regulations. One such regulation precludes North Perry Airport from excluding any legitimate aviation activity. According to current precedent and applicable law, aerial advertising is such an activity. Accordingly, North Perry Airport must permit Aerial Banners' operations. Further, such permission must be granted within a reasonable time.

My client has been extremely patient concerning this issue. I have advised my client that it is my legal opinion that such an exclusion is in violation of the federal grant assurances program possibly subjecting the North Perry Airport to forfeiting current as well as future and past funds obtained under that program.

If you have any questions or comments or otherwise cannot comply with our requests, please contact me at the above number.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael A. Moulis, Esq. for".

Michael A. Moulis

Attorney at Law

Florida Bar No.: 0186790



**C-3**

**C-4**



AVIATION DEPARTMENT - Fort Lauderdale/Hollywood International Airport  
320 Terminal Drive • Fort Lauderdale, Florida 33315 • 954-359-6100

(Dana)

Michael Moulis  
Moulis & Associates  
FLL Jet Center 1100 Lee Wagoner Boulevard  
Fort Lauderdale, FL 33315

November 21, 2002

Dear Mr. Moulis:

This is in response to the request made on behalf of Aerial Banners, Inc. to conduct Banner Towing Activity at North Perry Airport.

Broward County Aviation Department has the responsibility to insure a safe operating environment at North Perry Airport. As you may know, there is only one banner drop and pick up point on the airport and there is insufficient unused land to create additional areas. This designated area is currently heavily utilized by an existing airport tenant. We feel the activities of additional operators in this confined space would be unsafe both for ground operations and movement of aircraft. Coordination and communication would be potentially hazardous.

I have enclosed a copy of the Letter of Agreement between North Perry Tower and the existing banner tow operator.

We feel that activities of more than one operator in this confined space would be unsafe both for ground operations and movement of aircraft. Coordination and communications would be potentially hazardous. A separate pick up area would be more appropriate for an additional operator, however, we do not have sufficient land area available to designate another pick up area at North Perry Airport.

On February 10, 1994, Bart Vernace, Plans and Programs Manager, FAA Airport District Office, concurred with the position of Broward County Aviation Department to restrict use of the North Perry Airport to a single banner tow operator.

Broward County Board of County Commissioners

Josephus Eggelletion, Jr. • Ben Graber • Sue Gunzburger • Kristin D. Jacobs • Ilene Lieberman • Lori Nance Parrish • John E. Rodstrom, Jr. • James A. Scott • Diana Wasserman-Rubir  
[www.broward.org/fil.net](http://www.broward.org/fil.net)

Page 2,  
Michael Moulins

The Flight Standards District Office has informed us that their position remains unchanged and the position is, to restrict the use of North Perry Airport to a single banner tow operator.

Sincerely,

A handwritten signature in black ink, appearing to read "Nina B. Demeo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nina B. Demeo, Airport Manager  
North Perry Airport

cc: Dean Stringer, Manager FAA ADO  
Matt Thys, Program Manager, FAA ADO  
Bill Weaver, Manager, FAA, FSDO  
Walt Houghton, Deputy Director, BCAD  
Barbara Churchill, Director Of Operations, BCAD  
Chris Lee, County Attorney

NORTH PERRY TOWER AND AERIAL SIGN CORPORATION

LETTER OF AGREEMENT

EFFECTIVE: May 15, 1998

SUBJECT: BANNER TOW OPERATIONS

1. PURPOSE. To establish procedures applicable to banner tow aircraft activities within North Perry Class D airspace.

2. CANCELLATION. North Perry ATC Tower and Undersigned Banner Tow Operators Letter of Agreement, dated August 1, 1995.

3. SCOPE. The procedures contained herein are for use during periods when banner towing operations are being conducted in North Perry Class D airspace, in accordance with the waiver issued by the Flight Standards District Office 17 (FSDO-17).

4. RESPONSIBILITIES.

a. The Aerial Sign Corporation shall:

(1) Assure that pilots of their aircraft, vehicles, and ground personnel are familiar with and abide by this Letter of Agreement.

(2) Ensure North Perry Tower is supplied with a copy of the most current waiver issued by FSDO-17.

(3) Maintain two-way radio communications with North Perry Tower while operating in the North Perry Class D airspace. Ensure all aircraft are capable of communication on 134.3, 132.1, and 120.45.

(4) Be responsible to decide to operate on less than full runway length. Ensure that all pilots departing from intersections are familiar with the usable runway length from the applicable intersection.

(5) Ensure that banner tow aircraft avoid vehicles, objects, personnel, aircraft, and property in the banner tow area.

(6) Ensure that banner aircraft maintain separation between individual banner towing aircraft while conducting operations in the banner tow area.

b. North Perry Tower shall:

(1) Issue low approach clearances to banner aircraft picking up or dropping banners in the banner operating area.

(2) Utilize these procedures for banner tow operations, unless the pilot requests a deviation and traffic conditions warrant approval.

6. PROCEDURES.

a. Communications.

(1) "BANNER" shall be used to prefix the aircraft number, identifying that banner towing operations are being conducted. The aircraft type (Piper, Citabria, etc.) will be used at all other times.

(2) "ALPHA" indicates the aircraft is inbound for a banner drop.

(3) "DELTA" indicates the aircraft will be picking up a banner and departing the pattern.

(4) "ROMEO" indicates the aircraft is requesting to land after completing the banner drop.

(5) "HOT HOOK" indicates the aircraft may be experiencing difficulty dropping the banner/hook and is requesting to land with the banner/hook attached on the runway nearest to the banner area. The banner aircraft shall circle the banner area inside the field boundary and remain clear of active runways until a landing clearance is issued by the tower.

(6) To reduce frequency congestion code words may be combined. "ALPHA DELTA" would indicate an arrival/drop followed by a pick-up and departure. "ALPHA ROMEO" would indicate an arrival/drop followed by a landing.

b. Departures.

(1) Banner aircraft operating in the banner area shall pass parallel to and in the same direction as the active runway traffic. All turns shall be made away from the active runway.

(2) Banner tow aircraft shall not cross the final approach or departure path for the active runway.

(3) After banner pick-up the aircraft shall specify the desired banner departure route (TAFT, GULFSTREAM, STADIUM, etc.) and shall continue climb out

BANNER ROUTE 9 and 27 ALPHA

HOLLYWOOD AND TAFT ARRIVALS

INITIAL Abeam Chaminade High School

- 1 Report the Florida Turnpike at 1,300 feet MSL
- 2 Remain South of Hollywood Blvd and enter banner pattern
- 3 ( ON 9 ROUTE ) Drop banner parallel to Runway 9L left turns in banner pattern  
( ON 27 ROUTE ) Drop banner parallel to Runway 27R right turns in banner pattern

GULFSTREAM ARRIVAL

INITIAL Prior to entering North Perry Class D airspace Southeast

- 1 Proceed to microwave tower at County Line Rd and 56th Ave
- 2 Report crossing U S 441 at 1,300 feet MSL
- 3 Proceed to intersection of Pembroke Rd and 72nd Ave
- 4 Cross Runway 9R / 27L and 9L / 27R midfield at or above 800 feet MSL
- 5 ( ON 9 ROUTE ) After crossing Runway 9L, start a left turn to enter the banner pattern, drop banner parallel to Runway 9L, left turns in banner pattern  
( ON 27 ROUTE ) After crossing Runway 27R, start a left turn to enter the banner pattern, drop banner parallel to Runway 27R, right turns in banner pattern

STADIUM ARRIVAL

INITIAL County Line Rd and University Dr intersection

- 1 Report Crossing Miramar Blvd at 1,300 feet MSL
- 2 Cross Runway 9R / 27L and Runway 9L / 27R over Runway 36L at or above 800 feet MSL
- 3 ( ON 9 ROUTE ) After crossing Runway 9L, start a left turn to enter the banner pattern, drop banner parallel to Runway 9L, left turns in banner pattern

( ON 27 ROUTE ) After crossing Runway 27R, start a right turn to enter the banner pattern, drop banner parallel to Runway 27R, right turns in banner pattern.

PALM ARRIVAL.

INITIAL: Stirling Road

1. Report crossing Sheridan St. between Palm Ave. and Douglas Rd. at 1,300 feet MSL.
2. ( ON 9 ROUTE ) Drop banner parallel to Runway 9L, left turns in the banner pattern.  
( ON 27 ROUTE ) Drop banner parallel to Runway 27R, right turns in the banner pattern.

MALL ARRIVAL.

INITIAL: Pines Boulevard and Flamingo Road.

1. Report the Powerline/Pines Boulevard intersection at 1,300 feet MSL.
2. ( ON 9 ROUTE ) Enter banner pattern, Drop banner parallel to Runway 9L, left turns in the banner pattern.  
( ON 27 ROUTE ) Enter banner pattern, drop banner parallel to Runway 27R, right turns in banner pattern.



parallel to the runway heading until clearance is received from North Perry Tower for an on course turn.

d. Arrivals.

(1) Arriving banner tow aircraft shall contact North Perry Tower prior to, or at, the initial reporting point for the requested arrival route in Attachment 1.

(2) North Perry Tower shall advise the appropriate banner arrival route and the active runway configuration.

EXAMPLE: "GULFSTREAM arrival approved, for the inner ALPHA DELTA"

(3) Banner aircraft shall maintain 1,300 feet MSL until clear of the traffic patterns for the active runways or advised by North Perry Tower.


(4) After banner drop, aircraft requesting landing shall continue circling the banner area until landing instructions are received from North Perry Tower.


(5) No radio banner tow aircraft shall proceed to the Northeast corner of the airport at or above 1,300 feet MSL and circle Broward Community College (BCC) until receiving a light gun signal. After receiving a green light, the banner aircraft shall proceed direct to the banner area for the drop parallel to the active runway. After dropping the banner the aircraft shall circle the banner area until receiving a light gun signal. The banner aircraft, after receiving the appropriate light gun signal, shall land on the closest active runway to the banner area.

7. MISCELLANEOUS.

a. Deviation from procedures established in this agreement may be made only after coordination which completely defines responsibility in each case has been effected.

b. Aerial Sign Corporation covenants and expressly agrees that with regard to any liability which may arise from the operation within North Perry Airport, that party shall be solely and exclusively liable for negligence of its own agents, servants, and/or employees, in accordance with applicable law, and that neither party looks to the other to save or hold it harmless for the consequences of any negligence on the part of one of its own agents, servants, and/or employees.

  
Air Traffic Manager, North Perry Tower

  
President/Owner Aerial Sign Corporation

BANNER ROUTE 36 and 18 ALPHA

HOLLYWOOD AND TAFT ARRIVALS.

INITIAL: Abeam Chaminade High School.

1. Report the Florida Turnpike at 1,300 feet MSL.
2. Cross Runway 36L / 18R midfield, at or above 800 feet MSL.
3. ( ON 36 ROUTE ) After crossing Runway 36L, start a left turn to enter the banner pattern, drop banner parallel to Runway 36L, left turns in banner pattern.  
( ON 18 ROUTE ) After crossing Runway 18R, start a right turn to enter the banner pattern, drop banner parallel to Runway 18R, right turns in banner pattern.

GULFSTREAM ARRIVAL.

INITIAL: Prior to entering North Perry Class D airspace Southeast.

1. Proceed to microwave tower at County Line Rd. and 56th Ave.
2. Report crossing 441 at 1,300 feet MSL.
3. Proceed to intersection of Pembroke Rd. and 72nd Ave.
4. Cross Runway 36R / 18L and 36L / 18R midfield at or above 800 feet MSL.
5. (ON 36 ROUTE) After crossing Runway 36L, start a left turn to enter banner pattern, drop banner parallel to Runway 36L, left turns in banner pattern.  
(ON 18 ROUTE) After crossing Runway 18R, start a right turn to enter the banner pattern, drop banner parallel to Runway 18R, right turns in banner pattern.

STADIUM ARRIVAL.

INITIAL: County Line Rd. and University Dr. intersection.

1. Report crossing Miramar Blvd. at 1,300 feet MSL.
2. ( ON 36 ROUTE ) Enter banner pattern, drop banner parallel to Runway 36L, left turns in banner pattern.  
( ON 18 ROUTE ) Enter banner pattern, drop banner parallel to Runway 18R, right turns in banner pattern.